

Private Admonition -- Board Case No. 44 1995. Date of Sanction: May 21, 1996. Accepting a resolution proposed by the office of Disciplinary Counsel and the respondent, the Board on Professional Responsibility imposed a private admonition on a lawyer who admitted violating Rules 8.4(c) and 8.4(d) of the Delaware Lawyers' Rules of Professional Conduct. Rule 8.4(c) states that it is professional misconduct for a lawyer "to engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Rule 8.4(d) states that it is professional misconduct for a lawyer to "engage in conduct prejudicial to the administration of justice."

The violations concerned the false notarization of a purported signature to a consent agreement modifying child custody. The lawyer falsely attested that the opposing party's approval of the agreement had been "sworn and subscribed to before me...." The falsely notarized agreement was then submitted to the Family Court and entered as an order of the Court. Later, the opposing party moved to reopen the custody matter, objecting that his signature had been forged and falsely notarized. Finding that the signature of the opposing party on the agreement was not authentic, and that the lawyer had falsely notarized the signature, the Court reopened the matter.

In approving the private admonition, the Board considered that the opposing party had signed a consent agreement identical in substance to the falsely signed and notarized version. Therefore, the lawyer did not appear to be attempting to gain unfair advantage through the false notarization, but rather had improperly made an additional "original" for his files. Also, it appeared that a staff person, rather than the lawyer, had forged the opposing party's signature before presenting it to the lawyer for notarization.

As part of the sanction, the lawyer agreed to provide thirty hours of pro bono representation within the next year.